

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of Madison County, Montana (the "County"), hereby certify that the attached resolution is a true copy of Resolution No. 4-2006, entitled: "RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 2006-03 (MOORE'S CREEK) AND RURAL SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 2006-03M; DECLARING IT TO BE THE INTENTION OF THE BOARD OF COUNTY COMMISSIONERS TO CREATE DISTRICT NO. 2006-03 FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF RURAL SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE COUNTY'S RURAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND DISTRICT NO. 2006-03M FOR THE PURPOSE OF MAINTAINING THE IMPROVEMENTS" (the "Resolution"), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of County Commissioners of the County at a meeting on February 10, 2006, and that the meeting was duly held by the Board of County Commissioners and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Commissioners voted in favor thereof: \_\_\_\_\_  
\_\_\_\_\_; voted against the same: \_\_\_\_\_  
\_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_  
\_\_\_\_\_; or were absent: \_\_\_\_\_.

WITNESS my hand officially this \_\_\_\_\_ day of February 2006.

\_\_\_\_\_  
County Clerk and Recorder

RESOLUTION NO. 4-2006

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 2006-03 (MOORE'S CREEK) AND RURAL SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 2006-03M ; DECLARING IT TO BE THE INTENTION OF THE BOARD OF COUNTY COMMISSIONERS TO CREATE DISTRICT NO. 2006-03 FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF RURAL SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE COUNTY'S RURAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND DISTRICT NO. 2006-03M FOR THE PURPOSE OF MAINTAINING THE IMPROVEMENTS

BE IT RESOLVED by the Board of County Commissioners (the "Board") of Madison County (the "County"), Montana, as follows:

Section 1. Proposed Improvements; Intention To Create Districts. Upon receipt of a request of some property owners in Antelope Meadows #1, #2, and #3, Elkhorn Subdivision, Echols Minor Subdivision, West Terrace Country Estates, Glenview Heights, L&M Ranches, Vista Grande, and other individual lot owners, the County proposes to undertake certain local Improvements to benefit certain property. The Improvements consist of design and construction of approximately 8,100 lineal feet of road improvements, as more particularly described in Section 5. The total estimated costs of the Improvements, including contingency, is \$350,350. The costs of the Improvements are to be paid from the rural special improvement district bonds hereinafter described in an estimated total principal amount of \$425,000. It is the intention of this Board to create and establish in the County under Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), a rural special improvement district consisting of the Property (the "District") for the purpose of financing all costs of the Improvements and paying costs incidental thereto, including costs associated with the sale and the security of rural special improvement district bonds drawn on the District (the "Bonds"), the creation and administration of the District, the funding of a deposit to the County's Rural Special Improvement District Revolving Fund (the "Revolving Fund") and the establishment of a reserve account securing the Bonds in the District fund (the "Reserve Account"). The total estimated costs of the Improvements, including such incidental costs, to be financed by the Bonds are \$425,000. The Bonds are to be payable primarily from special assessments to be levied against property in the District, which property will be specially benefitted by the Improvements in an amount not less than \$425,000. It is also the intention of this Board to create and establish in the County under the Act, a rural special improvement maintenance district (the "Maintenance District") for the purpose of maintaining the Improvements.

Section 2. Number of Districts. The District, if the same shall be created and established, shall be known and designated as Rural Special Improvement District No. 2006-03 of Madison County, Montana. If the District shall be created and established, simultaneously therewith the Maintenance District shall be created and established and shall be known as Rural Special Improvement Maintenance District No. 2006-03M of Madison County, Montana.

Section 3. Boundaries of District. The limits and boundaries of the District are depicted on a map attached as Exhibit A hereto (which is hereby incorporated herein and made

a part hereof), which boundaries are designated and confirmed as the boundaries of the District. A listing and legal description of each of the properties in the District is shown on Exhibit B hereto (which is hereby incorporated herein and made a part hereof).

Section 4. Extended District - Benefitted Property. The District and territory included within the said limits and boundaries described in Section 3 and as shown on Exhibits A and B are hereby declared to be the District and the territory which will benefit and be benefitted by the Project. The property included within said limits and boundaries, whether or not abutting all of the Improvements, is benefitted by the Improvements which are of more than local or ordinary benefit, and is hereby declared to be the property which will be assessed and taxed for the costs of the Project as described herein.

Section 5. General Character of the Improvements. The general character of the Improvements shall be:

(i) all improvements necessary for the construction of a 22 feet wide paved roadway between Montana State Highway 287 and the entrance to the Vista Grande Road and a 14 feet paved roadway to the cattle guard in the opposite direction towards L&M Ranches, including all construction preparation work at an estimated cost of \$350,350, as more fully shown on Exhibit C hereto, including grading, shaping, and compacting existing sub-base gravels; establishing drainage; placing an asphalt prime coat over the width the roadways; placing a 3" thickness of bituminous asphalt surfacing over the width of the roadways; installing traffic control devices; and installing concrete barriers on each end of both culverts; all providing surfacing and drainage improvements of the existing approximately 5,300 lineal feet of road from the junction of Montana State Highway 287 and Moore's Creek Road, extending to the junction of Moore's Creek Road, Antelope Road, and L&M Ranches Road (the "Moore's Creek Improvements");

(ii) all improvements necessary for the construction of a county standard 20 feet wide paved roadway of approximately 2,800 lineal feet with 2 feet wide graveled shoulders on Antelope Meadows Road between Vista Grande Road to the beginning of the loop road in Antelope Meadows, including all construction preparation work (the "Antelope Meadows Improvements")

#### Section 6. Assessment Methods.

6.1. Property To Be Assessed; Benefitted Properties. All properties within the District are to be assessed for a portion of the costs of the Improvements, as specified herein. The costs of the specified Improvements shall be assessed against the property in the District benefitting from the Improvements, based on the equal method of assessment described in Section 7-12-2151, M.C.A., as particularly applied and set forth in this Section 6. All properties in the District are benefitted by one of the Improvements, but it may not be benefitted by all of the Improvements.

6.2. Equal Assessments. All properties in the District will be assessed for their proportionate share of the costs of the Improvements as set forth herein.

Moore's Creek Improvements. The total estimated cost of the Moore's Creek Improvements and costs incidental thereto is \$233,750 and shall be assessed against each lot, tract or parcel of land in the District benefitted by the Moore's Creek Improvements equally. Each lot, tract or parcel in the District benefitting from the Moore's Creek Improvements and to

be assessed is shown on Exhibit B. There are 88 lots to be assessed for the Moore's Creek Improvements. The costs of the Moore's Creek Improvements per lot, tract or parcel to be assessed shall not exceed \$2,656.

Antelope Meadows Improvements. The total estimated cost of the Antelope Meadows Improvements and costs incidental thereto is \$191,250 and shall be assessed against each lot, tract or parcel of land in the District benefitted by the Antelope Meadows Improvements equally. Each lot, tract or parcel in the District benefitting from the Antelope Meadows Improvements, which is all lots, tracts, or parcels in the District North of Vista Grande Road, and to be assessed is shown on Exhibit B. There are 48 lots to be assessed for the Antelope Meadows Improvements. The costs of the Antelope Meadows Improvements per lot, tract or parcel to be assessed shall not exceed \$3,984.

6.3. Assessment Methodology Equitable and Consistent with Benefit. This Board hereby determines that the method of assessment and the assessment of costs of the specific Improvements against the properties benefited thereby as prescribed in this Section 7 are equitable and in proportion to and not exceeding the special benefits derived from the respective Improvements by the lots, tracts and parcels to be assessed therefor within the District. The assessment methodology described in this Section 7 is the same methodology included in petitions for creation of the District submitted by owners of property within the District.

Section 7. Payment of Assessments for Repayment of Bonds. The special assessments for the costs of the Improvements and costs incidental thereto shall be payable over a term not exceeding 20 years, each in equal semiannual installments of principal, plus interest as allowed by law, or equal semiannual payments of principal and interest as allowed by law, as this Board shall prescribe in the resolution authorizing the issuance of the Bonds. Property owners have the right to prepay assessments as provided by law. The estimated total principal amount of special assessments for undertaking the Improvements against properties in the District are shown on the attached Exhibit C. In the event the District is created and the Bonds issued, the special assessments levied against property in the District will be stated as semiannual installments of principal and interest. Assessments for maintenance of the Improvements are described below in Section 10.

Section 8. Method of Financing; Pledge of Revolving Fund; Findings and Determinations. The County will issue the Bonds in an aggregate principal amount not to exceed \$425,000 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the District and such payment will be secured, in part, by the Reserve Account. This Board further finds it is in the public interest, and in the best interest of the County and the District, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the County to enter into the undertakings and agreements authorized in Section 7-12-2185 in respect of the Bonds.

In determining to authorize such undertakings and agreements, this Board has taken into consideration the following factors:

(a) Estimated Market Value of Parcels. The estimated market value of the lots, parcels or tracts in the District as of January 1, 2005, as estimated by the Montana Department of Revenue (the "DOR") (the appraiser for property tax purposes), is set forth in Exhibit B hereto, with unimproved lots having a market value of \$20,000 and improved lots having a

market value of \$320,000. The special assessments to be levied against each lot, parcel or tract in the District, as calculated under Section 7, are less than the increase in estimated market value of the lot, parcel or tract as a result of the construction of the Improvements.

(b) Diversity of Property Ownership. There are 88 assessable lots, tracts and parcels in the District, the majority of which are developed and under individual ownership. There are 45 undeveloped lots in the District, all of which are individually owned. The property ownership of the properties within the District's boundaries from the County's property ownership records on January 1, 2005 is shown on Exhibit B.

(c) Comparison of Special Assessments and Property Taxes and Market Value. Information showing proposed special assessments and market value information is shown in Exhibit B. [The County is not aware of any special assessments currently levied against properties in the District.] The value of all the lots, tracts or parcels in the District is significantly greater than the amount of the assessments proposed. Of the 88 assessable lots, tracts and parcels in the District, none have an estimated market value ascribed by the DOR that is less than the total estimated principal amount of the assessment against each lot, parcel or tract.

(d) Delinquencies. As of January 1, 2005, of the 88 parcels, none have tax delinquencies.

(e) The Public Benefit of the Improvements. The District will result in the paving of 1.5 miles of roads in the County. The improving of public roads in the County is of benefit to County residents as well as of special benefit to the District.

(f) Other Factors. The County is establishing a 5% reserve for the Reserve Account in the District fund. This reserve will be utilized to fund any debt service deficiencies related to this District before resorting to the Revolving Fund. In consideration of the factors enumerated above, the County anticipates that it will assess simple interest plus  $\frac{1}{2}$  of 1% per year on unpaid assessments plus an additional  $\frac{1}{2}$  of 1% per year on unpaid assessments as permitted under 7-12-2176(c), M.C.A.

Section 9. Maintenance District. If the District is created, it is the intent of this Board to create simultaneously the Maintenance District for the purpose of assessing the costs of maintaining, preserving or repairing the Improvements, snowplowing, and the removal of weeds along the right of way, in accordance with the provisions of Sections 7-12-2161 through 7-12-2163, M.C.A. The boundaries of the Maintenance District shall be coterminous with the District. As set forth on the attached Exhibit C, the total estimated annual costs of the maintenance of the Improvements in the Maintenance District is estimated to be \$3,150. Maintenance of the Improvements will be assessed on an equal lot basis. Based on 88 lots, the estimated cost is \$35 per lot, tract, or parcel in the Maintenance District per year, which amount shall be assessed in annually.

#### Section 10. Reimbursement Expenditures.

10.1. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the County for project expenditures paid by the County prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the County adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The

Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

10.2. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iii) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the County before the date 60 days before the date of adoption of this resolution.

10.3. Declaration of Intent. The County reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$425,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

10.4. Budgetary Matters. As of the date hereof, there are no County funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the County’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

10.5. Reimbursement Allocations. The County’s Treasurer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the County to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the County maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

Section 11. Public Hearing; Protests. At any time within thirty (30) days from and after the date of the first publication of the notice of the passage and approval of this resolution, any owner of real property within the District subject to assessment and taxation for the cost and expense of making the Improvements may make and file with the County Clerk and Recorder until 11:00 a.m., M.T., on the expiration date of said 30-day period March 20, 2006, written protest against the proposed Improvements, or against the extension or creation of the District or both. Such protest must be in writing, identify the property in the District owned by the protestor and be signed by all owners of the property. The protest must be delivered to the County Clerk and Recorder, who shall endorse thereon the date of its receipt by him or her. This Board will at its next regular meeting after the expiration of the thirty (30) days in which such protests in writing can be made and filed, proceed to hear all such protests so made and filed; which said regular meeting will be held on Monday the 20th of March, 2006 at 1:00 p.m., in

the Commissioners' Conference Room at the Madison County Courthouse, 110 West Wallace, in Virginia City, Montana.

Section 13. Notice of Passage of Resolution of Intention. The County Clerk and Recorder is hereby authorized and directed to publish or cause to be published a copy of a notice of the passage of this resolution in the Madisonian, a newspaper of general circulation in the County on February 16, 2006 and February 23, 2006, in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said notice to every person, firm, corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county, and school district taxes, at his last-known address, on or before the same day such notice is first published.

PASSED AND ADOPTED by the Board of County Commissioners of Madison County, Montana, this 10th day of February, 2006.

\_\_\_\_\_  
Chair of the Board of County Commissioners

Attest:

\_\_\_\_\_  
County Clerk and Recorder

EXHIBIT A

MAP OF THE DISTRICT

EXHIBIT B

LISTING AND LEGAL DESCRIPTION OF  
PROPERTIES IN THE DISTRICT

EXHIBIT C

PROJECT BUDGET

(Please obtain Exhibits from the Clerk and Records Office)